

1 KELLY M. KLAUS (State Bar No. 161091)  
kelly.klaus@mto.com  
2 BRYAN H. HECKENLIVELY (State Bar No. 279140)  
bryan.heckenlively@mto.com  
3 ROSE LEDA EHLER (State Bar No. 296523)  
Rose.Ehler@mto.com  
4 MUNGER, TOLLES & OLSON LLP  
560 Mission Street  
5 Twenty-Seventh Floor  
San Francisco, California 94105-2907  
6 Telephone: (415) 512-4000  
Facsimile: (415) 512-4077  
7

8 Attorneys for Proposed Intervenor National Fire  
Protection Association  
9

10 LOUIS Y. LEE (State Bar No. 315753)  
louis.lee@morganlewis.com  
MORGAN, LEWIS & BOCKIUS LLP  
11 One Market, Spear Street Tower  
San Francisco, CA 94105-1596  
12

J. KEVIN FEE (*pro hac vice* forthcoming)  
13 kevin.fee@morganlewis.com  
JANE W. WISE (*pro hac vice* forthcoming)  
14 jane.wise@morganlewis.com  
MORGAN, LEWIS & BOCKIUS LLP  
15 1111 Pennsylvania Ave. NW  
Washington, DC 20004-2541  
16

17 Attorneys for Proposed Intervenor  
International Code Council, Inc.  
18

19 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
20 COUNTY OF SACRAMENTO  
21

22 Public.Resource.Org., Inc.,

23 Petitioner,

24 vs.

25 California Office of Administrative Law, and  
the California Building Standards  
Commission,  
26

27 Respondents.

Case No. 34-2021-80003612

**Declaration of Mark Johnson in Support of  
Intervenors' Brief in Opposition to the  
Petition for a Writ of Mandate**

Date: January 21, 2022

Time: 1:30 p.m.

Dept.: 27

Judge: Hon. Steven M. Gevercer

Action Filed: March 17, 2021

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**DECLARATION OF MARK JOHNSON**

I, Mark Johnson, declare as follows:

1. I am the Executive Vice President and Director of Business Development for International Code Council, Inc. (“ICC”), a position I have held since approximately 2011. I have been employed by ICC since 2003. The contents of this declaration are within my personal knowledge or, if they are not, I am informed as to them by individuals with personal knowledge and believe them to be true. If called as a witness in this action, I could and would testify competently to the contents of this declaration.

2. For the Court’s ease of reference, I have included some information from my May 17, 2021 declaration in this matter regarding the portions of ICC’s copyrighted works that are the subject of this petition.

3. ICC is a non-profit organization that exists for the purpose of advancing public safety, ensuring compatibility across products and services, facilitating training, and spurring innovation through the development, maintenance, and publication of model codes and standards.

4. ICC’s mission is safety. ICC provides the highest quality codes, standards, products, and services for all concerned with the safety and performance of the built environment.

5. ICC has over 64,000 members comprising manufacturers, testing laboratories, consumers, regulators, builders, contractors, designers, product certifiers, and academics from more than 50 countries. By facilitating participation from its vast network of members, ICC ensures that no one group or industry dominates the code development process.

6. ICC has developed 15 comprehensive model codes through its exhaustive code development process, including the four International Codes (“I-Codes”) that make up substantial portions of Title 24 of the California Code of Regulations.

7. Among these codes and standards, ICC publishes the International Building Code (“IBC”), International Residential Code (“IRC”), International Fire Code (“IFC”), and International Existing Building Code (“IEBC”). The IBC, IRC, and IEBC set forth minimum safety standards for the design, installation, and inspection of safe, sustainable, affordable and

1 resilient structures. The IFC sets forth minimum safety standards to safeguard life and property  
2 from fires and explosions.

3 8. Interested stakeholders participate in the development of the I-Codes through the  
4 submission of code change proposals and public comments as well as by testifying at the hearings  
5 and through participating on technical committees.

6 9. ICC's code-development processes draw on a wide range of input from a variety of  
7 interests and sources of expertise.

8 10. ICC coordinates code development committees composed of subject matter  
9 experts, regulators, and interest groups to create a transparent and inclusive consensus-based  
10 process. Because each code addresses technical and complex issues, ICC relies on focused,  
11 skilled committees to consider testimony presented at hearings and to act on code change  
12 proposals.

13 11. ICC's goal is to conduct a process open to all parties with safeguards to avoid  
14 domination by proprietary interests. ICC's members and interested stakeholders participate in the  
15 development of ICC's codes through service on ICC's more than 40 technical committees,  
16 including 17 committees that conduct hearings on proposed code changes.

17 12. To address advancements in technology and safety standards, all I-Codes are  
18 revised on a three-year schedule and either reapproved, revised or withdrawn in two revision  
19 cycles that typically take up to 12-18 months to complete.

20 13. ICC incurs substantial costs for its code-development infrastructure and delivery  
21 platforms, including the resources it provides to encourage collaboration among members and the  
22 public.

23 14. ICC spends millions of dollars per year on code development. In 2019 alone, ICC  
24 spent more than \$3.4 million on code-development costs, including on the development of  
25 technology that allows the public to submit comments and proposed changes to the I-Codes.  
26

27 15. ICC heavily relies on the revenues that it earns from the sale and licensing of the I-  
28 Codes to fund these expenses. In 2019 alone, over 45 percent of ICC's revenue derived from sales

1 of the I-Codes and state-specific codes that incorporate portions of the I-Codes, including the  
2 California Building Code.

3 16. ICC also generates over a million dollars of revenue from licensing its codes to  
4 organizations like MADCAD, an online reference library, where users can purchase model codes,  
5 commentary, and guidelines.

6 17. The purchasers of ICC’s publications are people who routinely use and reference  
7 the I-Codes in the course of their business, including architects, code officials, contractors,  
8 builders, and designers.

9 18. ICC recognizes the importance of ensuring that the public has meaningful access to  
10 the I-Codes. As a result, ICC makes its codes available for free on its website—in a read-only  
11 format—through its publicACCESS site.

12 19. ICC contracts with states, like California, to publish integrated codes that contain  
13 both state-specific provisions and amendments and significant portions of the model code text that  
14 have been adopted by the jurisdiction.

15 20. The California Building Code (Title 24, Part 2 of the California Code of  
16 Regulations), incorporates substantial portions of ICC’s IBC. The California Residential Code  
17 (Title 24, Part 2.5 of the California Code of Regulations) incorporates substantial portions of  
18 ICC’s IRC. The California Fire Code (Title 24, Part 9 of the California Code of Regulations)  
19 incorporates substantial portions of ICC’s IFC. The California Existing Building Code (Title 24,  
20 Part 10 of the California Code of Regulations) incorporates substantial portions of ICC’s IEBC.  
21 Title 24 of the California Code of Regulations (“CCR”) also contains California-specific  
22 provisions, which are authored by Respondent Building Standards Commission (“BSC”). The  
23 California-specific provisions of the Title 24 of the CCR include amendments the BSC has made  
24 to the IBC, IRC, IFC, and IEBC. ICC publishes and distributes Parts 1, 2, 2.5, 6, and 8-12 of Title  
25 24 to the CCR at no additional charge to BSC. The development, maintenance, and free public  
26 access to these provisions is funded by the sale these documents in print and electronic formats.

27 21. ICC owns the copyright to the IBC, IRC, IFC, IEBC, and its other model codes and  
28 standards. Pursuant to agreement, ICC granted BSC a license to the IBC, IRC, IFC, and IEBC to

1 cover the use and copying of the portions of the IBC, IRC, IFC, and IEBC that BSC incorporates  
2 into Title 24 of the CCR. As part of the same agreement, BSC has granted ICC a license to the  
3 California-specific portions of Parts 1, 2, 2.5, 6 and 8-12 to Title 24 of the CCR for ICC to copy  
4 and distribute copies of the entire CCR to members of the public. ICC's agreement with the BSC  
5 also requires ICC to provide printed copies of the California Building Code, California Residential  
6 Code, California Fire Code, and California Existing Building Code to over 100 specified  
7 depository libraries in California.

8         22. Like its model I-Codes, ICC makes the portions of the California Building  
9 Standards Code that it publishes available through its publicACCESS website at  
10 <https://codes.iccsafe.org/codes/california> and from the BSC website at  
11 <https://www.dgs.ca.gov/BSC/Codes>. ICC also donates copies of the portions of the California  
12 Building Standards Code at issue to libraries throughout California.

13         23. ICC posts Title 24 Parts 1, 2, 2.5, 6, and 8-12 of the CCR on its website for free  
14 viewing by anyone who is interested in reading any portion of Title 24 of the CCR. People who  
15 view the free-access Title 24 of the CCR on ICC's website may read the content but may not  
16 download or distribute copies of it. The license agreement between ICC and BSC does not allow  
17 BSC to distribute electronic copies of the IBC, IRC, IFC, or IEBC to members of the public.

18         24. Persons that want hard copies of the I-Codes or that want to copy or distribute  
19 copies of the I-Codes pay for that right or otherwise obtain a license.

20         I declare under penalty of perjury under the laws of the State of California that the  
21 foregoing is true and correct.

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23         Executed on this 21 day of December, 2021, at Whittier, California.

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Mark Johnson